

Agreement Finalized In Federal Court

By Susan Pastor, U.S. Environmental Protection Agency

An agreement clearing the way for \$41.5 million worth of interim cleanup and restoration projects was finalized in December 2001 by a federal judge.

The agreement, between the Fox River Intergovernmental Partners (see sidebar below for a list of the partner agencies) and two companies, is formally known as a consent decree. Lodged with the U.S. District Court for the Eastern District of Wisconsin in August 2001, it allows for interim cleanup and natural restoration projects on the Fox River and Green Bay to proceed while comprehensive cleanup and restoration plans are developed as part of the remedial investigation/feasibility study and natural resource damage assessment.

Intergovernmental Partners

Formed in 1997, the Intergovernmental Partners is a group of six agencies that are working together to clean up the Lower Fox River. The agencies include the U.S. Environmental Protection Agency, Wisconsin Department of Natural Resources, U.S. Department of the Interior as represented by the U.S. Fish and Wildlife Service, U.S. Department of Commerce as represented by the National Oceanic and Atmospheric Administration, Menominee Indian Tribe of Wisconsin and Oneida Tribe of Indians of Wisconsin.

All of the agencies, with the exception of EPA, are also natural resource trustees. Under the Superfund law, Congress deemed EPA as the organization responsible for cleanup while the others are responsible, as trustees, for restoration of lost or injured resources around the Fox River.

The companies, Appleton Papers Inc. and NCR Corporation, have agreed to make:

- payments totaling up to \$40 million over the next four years, based on estimates provided by the partners, to fund cleanup and restoration projects selected by the partners.
- four payments of \$375,000 over the next four years, for a total of \$1.5 million, to go to the Department of the Interior, one of the partner agencies, to help pay back expenses it has incurred in putting together the NRDA.

This agreement does not resolve the overall liability of API or NCR, nor does it include other paper companies involved with the Fox River site.

According to Tom Nelson, environmental specialist for the Oneida, the agreement will benefit the tribe in many ways. "This agreement will allow the tribe to begin projects that will protect and restore the waters of the Oneida reservation sooner than initially anticipated," he said.

Nelson added that the partner agencies have been meeting regularly since June to prioritize and select the projects. "Many of the projects we are proposing will also provide direct benefits to Green Bay, the Fox River and everyone in northeast Wisconsin," he continued. "We are very pleased that API and NCR have chosen to take this proactive approach."

During the four years of the agreement, API and NCR will continue to negotiate their overall liability at the Fox River site according to the Superfund law. Additional parties determined to be potentially responsible for site contamination may join these negotiations. Also, during the four-year term of the

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In response to reader requests, the Fox River Current will regularly feature successful natural resource damage assessments similar to what may occur at the Lower Fox River.

Spotlight On:

Jordan River Restoration Project

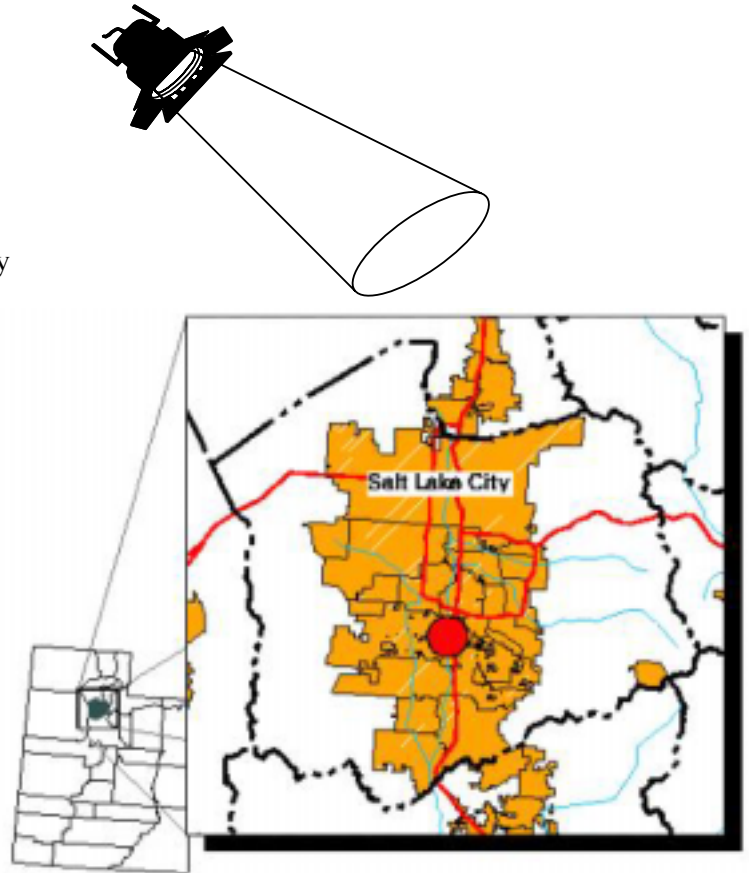
By Susan Pastor, U.S. Environmental Protection Agency

The natural resources restoration of 222 acres of habitat along the 55-mile Jordan River in Salt Lake County Utah, actually involves three separate projects. The river, which runs north through Salt Lake City and its suburbs until it reaches Farmington Bay and the Great Salt Lake, will benefit from natural resource damage assessment settlement funds obtained from the Sharon Steel Superfund site and portions of the Midvale Slag site.

Because the two Superfund sites injured natural resources along the river, money from the settlement will be used to remove invasive exotic plants, reestablish native plants and recontour the banks of the Jordan River to restore the floodplain and stream-side habitat associated with the river. Unfortunately, Sharon Steel's owner, Arco, had declared bankruptcy, so the U.S. Fish & Wildlife Service could only recover \$2.3 million for restoration projects, according to Bruce Waddell, environmental contaminant specialist for the FWS Utah Ecological Services Field Office. "The federal government, meaning the Environmental Protection Agency and Department of Justice, recovered \$60 million," he explained. "About \$2.3 million went to FWS and the rest went to the state of Utah to clean up the Sharon Steel site."

The settlement was received in 1991 by FWS, the only natural resource trustee. Cooperative agreements with the cities of South Jordan and West Jordan and the Great Salt Lake Audubon Society were signed in 1997 to protect and restore 222 acres of stream-side habitats. "We are now trying to finalize getting those monies spent," Waddell continued.

According to Waddell, the Midvale Slag site has not been cleaned up and the FWS is working toward a settlement from the remaining landowner. FWS is hoping for additional funds from that settlement.



This map shows the vicinity of the Jordan River Restoration Project.

"We're shooting for remediation, restoration and easements along the Jordan River," he said.

Because the amount of the settlement could not fully restore the injured resources, Waddell said FWS joined forces with other state and federal agencies, municipalities and non-profit organizations to increase the restoration abilities. "By working with the partners, we've upped the value of that settlement to \$8 million," he stated. "The Fish and Wildlife Service is working with GSL Audubon regarding long-term maintenance of the sites."

The Jordan River is an important migratory route and breeding location for several species of migratory songbirds. Several species that live along Utah's waterways are now rare or absent along the Jordan River. Over the years, pollution, dredging, channelization and urban encroachment have taken their toll and injured the natural resources. The natural

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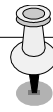
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resource damage settlement funds will provide the Jordan River with a second chance.

The three restoration projects are:

- **West Jordan Natural Habitat Restoration Project** which will acquire and restore about 90 acres of wetland and upland habitats along the river's floodplain in the city of West Jordan. The project area lies on the west side of the river directly across from the Sharon Steel site. This project will protect these lands from being converted to residential and commercial land uses. The area will be managed specifically for wildlife with an emphasis on federally protected trust resources. Public access will be permitted by way of a soft surface, dead end, educational trail. If necessary, the trail will be closed during the breeding season to decrease disturbance.
- **Audubon/Tree Utah Migratory Bird Habitat Restoration Project** which will involve the purchase, restoration and protection of about 63 acres of wetland, water and upland habitats along the Jordan River floodplain in the city of South Jordan adjacent to the Audubon South Jordan Riverway Wildlife Enhancement Project. This project is on the east side of the river about two miles south of the two Superfund sites, however, due to the upstream location, it is not impacted by heavy metal contamination. The objective is to restore and manage the area specifically for neotropical migratory birds. Public access will be limited to activities compatible with migratory birds and their habitats and entirely restricted during the nesting season.
- **Audubon South Jordan Riverway Wildlife Enhancement Project** which will involve the purchase, restoration and protection of about 70 acres of diverse wetland, water and upland habitats along the Jordan Floodplain in the city of South Jordan. The project site is on the east side of the river about three miles south of the two Superfund sites. Since this is an upstream location, heavy metal contamination is not associated with the area.

Waddell, who worked on this settlement for six years, said this was one of the first settlements for FWS, "so there were a lot of learning curves." He concluded, "A successful settlement can happen, but it does take hard work and commitment."



Out and About...

By Greg Swanson, Wisconsin Department of Natural Resources

The Fox River Intergovernmental Partnership, made up of the U.S. Environmental Protection Agency, Wisconsin Department of Natural Resources, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, Oneida Tribe of Indians of Wisconsin and Menominee Indian Tribe of Wisconsin, regularly provides speakers to organizations in the Fox Valley area. The following partners recently made presentations.

October

- *George Boronow*, DNR: Green Bay Sunrise Optimist Club, Green Bay; Fox River PCB cleanup plan.
- *Ed Lynch, Bruce Baker*, DNR: Wisconsin Natural Resources Board, Neenah; Fox River PCB cleanup plan.
- *Ed Lynch, Bruce Baker*, DNR: Fox Valley municipal officials group, Appleton; Fox River PCB cleanup plan.

November

- *Ed Lynch, Bruce Baker*, DNR: Small Business Environmental Group, Green Bay, Fox River PCB cleanup plan.

December

- *Jim Hahnenberg*, EPA, *Tom Nelson*, Oneida, *Colette Charbonneau*, FWS, *Ed Lynch*, DNR: DePere High School Environmental Club, DePere; Fox River PCB cleanup plan.

January

- *George Boronow, Ed Lynch, Greg Hill*, DNR, *Tom Nelson*, Oneida, *Colette Charbonneau*, FWS: Lower Fox River Basin Partners Team, Neenah; Fox River PCB cleanup plan and restoration.

Profile On . . . Tom Skinner

New EPA Regional Administrator Reconnects With Fox Valley

By Susan Pastor and Karen Thompson, U.S. Environmental Protection Agency

Although Tom Skinner is a new federal government employee, he is not new to environmental protection nor is he new to Wisconsin's Fox Valley.

Skinner, 40, served as the director of the Illinois Environmental Protection Agency from January 1999 until June 2001, when he accepted the nomination to be the regional administrator for U.S. EPA's Chicago office. In October, he traveled to Green Bay to assist in making the announcement that a proposed cleanup plan for the Lower Fox River was available to the public. The 1983 graduate of Lawrence University, Appleton, said the Fox River is "near and dear to my heart." In fact, at a subsequent meeting on the project, he proudly proclaimed, "I'll bet I'm the only one at this table who has been in the Fox River."

When Skinner, a resident of Lake Bluff, Ill., left Lawrence University, he continued his education at Northwestern University, Chicago, Ill., where he earned his law degree in 1987. From there, he went on to become a special assistant to then-Illinois Governor James Thompson before beginning an 8-year stint for the Chicago law firm, Winston & Strawn. "But, it wasn't until I became a father that I truly appreciated the role the environment plays in our lives," he continued, "and its importance to my kids' and grandkids' futures."

Because he enjoys doing "family things" with his wife Laura and daughters Elizabeth, 9, Katie, 7 and Becca, 3, he is glad to only have to commute from the northern suburbs to downtown Chicago. As director of the Illinois EPA, he commuted to and from Illinois' capital, Springfield, and was away from home quite a bit. "It's great to be home," he said. "Everything is focused on government business in Springfield. Chicago isn't like that. There's so much going on here."



Tom Skinner

But, even some government business tends to follow him home. He was elected to a 4-year term as president of Lake Bluff. Prior to his April 2001 victory, he served for four years as a trustee. "I like the direct interaction with people that this volunteer position offers," he continued. "Few of my 5,500 constituents hesitate to call if they want to express an opinion or make a complaint or suggestion."

To take his mind off government and politics, Skinner plays hockey in his spare time. His group tries to play weekly. "I thought I might be able to play more often now that I'm back in town full time," he concluded. "But, it's hard to get ice time, so we end up playing late on Thursday evenings."

So, don't be surprised if he looks a bit tired on Friday mornings.

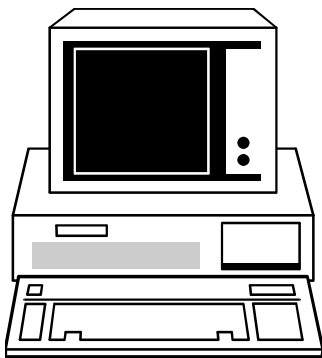
Check out these Web sites:

<http://www.dnr.state.wi.us/org/water/wm/lowerfox/>

<http://www.epa.gov/region5/foxriver/>

<http://www.fws.gov/r9dec/nrdar/nrdamain.html>

<http://www.fws.gov/r3pao/nrda/>

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consent decree, the partners agree not to sue API and NCR with respect to site contamination, and API and NCR agree not to sue the partners.

This agreement can be terminated before the end of its four-year term by:

- the partners if any payment is not made by API and NCR after 10 days of written notice of the intent to terminate by the partners.
- API and NCR if the partners enter into subsequent agreements with other companies over their objection and those agreements cut off API's and NCR's legal ability to seek money from those companies.

According to EPA Assistant Regional Counsel Roger Grimes, this agreement is somewhat unique. "This is an innovative agreement that will allow environmental cleanup and restoration to start much sooner than if we didn't have this agreement," he stated.

Copies of the final consent decree will be available for review at the information repositories listed below and on <http://www.epa.gov/region5/foxriver>.

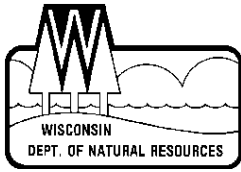
Information Available at Local Libraries

The Intergovernmental Partners invite the public to review technical reports, fact sheets and other documents related to the Lower Fox River cleanup at information repositories set up in the reference sections of the following local libraries. Information repositories at the public libraries in DePere, Kaukauna, Little Chute, Neenah, and Wrightstown have been discontinued. However, binders containing fact sheets will be mailed to and maintained at these locations as well as at the repositories listed below.

- **Appleton Public Library**, 225 N. Oneida St., Appleton, Wis.; (920) 832-6170
- **Brown County Library**, 515 Pine St., Green Bay, Wis.; (920) 448-4381, Ext. 394
- **Door County Library**, 107 S. Fourth Ave., Sturgeon Bay, Wis.; (920) 743-6578
- **Oneida Community Library**, 201 Elm St., Oneida, Wis.; (920) 869-2210
- **Oshkosh Public Library**, 106 Washington Ave., Oshkosh, Wis.; (920) 236-5200



An administrative record, which contains detailed information upon which the selection of the final site cleanup plan will be based, is also available for review at two DNR offices: 801 E. Walnut St., Green Bay, Wis. and 101 S. Webster St., 3rd Floor, Madison, Wis. An administrative record is also available at the EPA's Record Center, 77 W. Jackson Blvd., 7th Floor, Chicago, Ill.



Prepared by the Fox River Intergovernmental Partnership: Wisconsin Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Menominee Indian Tribe of Wisconsin, Oneida Tribe of Indians of Wisconsin, and National Oceanic and Atmospheric Administration. Supporting agencies include the Wisconsin Department of Health and Family Services, the U.S. Agency for Toxic Substances and Disease Registry, and the U.S. Army Corps of Engineers.

Disclaimer: The opinions expressed in these articles are solely those of the authors and are not necessarily shared by all members of the Fox River Intergovernmental Partnership.

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Fox River Current is published bimonthly by the Fox River Intergovernmental Partnership. Its purpose is to provide up-to-date information about cleanup and restoration efforts on the Lower Fox River. Call Greg Swanson at (608) 264-6024 to request a subscription or alternative format. Feedback on articles and ideas for future issues are welcome. Send comments to Greg Swanson, *Fox River Current*, DNR, CE/6, P.O. Box 7921, Madison, WI 53707 or e-mail <swansg@dnr.state.wi.us>

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